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THE VIDEOGRAPHER: This is the videotaped deposition of the Eitan Hersh. This is the beginning of Tape 1. Today's date is May 23rd, 2017; and we're on the record at approximately 9:00 o'clock.

EITAN HERSH,

having been duly sworn, testified as follows:

**EXHIBIT B**

25

1 could make incremental progress on scientific questions  
2 through being a social scientist.

3           **Q. What would you consider your expertise in?**

4           A. So I would generally describe my expertise  
5 first as about American politics, then specifically  
6 about questions of mass behavior and how institutions of  
7 government affect mass behavior.

8                         A lot of my work has a methodological  
9 focus on public records, voter registration data. A lot  
10 of my research is not particularly about the voter  
11 registration system but uses that system to help us  
12 understand a number of aspects of human behavior.

13                         And then I have some work on political  
14 campaigns. Obviously, my book is about both voter  
15 registration systems and political campaigns in general.  
16 But the one-liner is American politics.

17           **Q. And I'm just going to go through a series of  
18 questions, just to kind of focus on what your expertise  
19 is.**

20           A. Sure.

21           **Q. You're not a legal scholar, correct?**

22           A. I'm not a lawyer, so I'm not a legal scholar  
23 in that sense; but I am a scholar on how laws affect  
24 stuff.

25           **Q. Do you consider yourself a legal expert?**

1 A. No.

2 Q. And you didn't go to law school?

3 A. No.

4 Q. I take it -- have you ever taken any classes  
5 dealing with statutory construction or how to interpret  
6 statutes?

7 A. No.

8 Q. Any classes or experience focused on IT or  
9 computer science?

10 A. Well, a lot of the background of my Ph.D. in  
11 political science is focused on statistics; and, you  
12 know, anyone studying statistics now is also learning  
13 programming. So I've learned those things.

14 Q. What type of programming have you learned?

15 A. So the programming is mostly programming for  
16 statistical software, so R, Stata, and then some use of  
17 SQL, just another language.

18 Q. You're not an accounting expert, correct,  
19 accounting?

20 A. About the topic of accounting?

21 Q. Yes.

22 A. No.

23 Q. Never taken accounting classes?

24 A. No.

25 Q. Okay. What about economics?

1 A. Yeah, I've taken economics classes.

2 Q. Like intro?

3 A. Undergraduate econ classes, that's right.

4 Q. What about engineering?

5 A. Econometrics, which is a synonym for  
6 statistics, basically.

7 Q. Engineering?

8 A. No.

9 Q. Okay. What was your first job out of graduate  
10 school?

11 A. My first job out of graduate school has been  
12 this professorship at Yale.

13 Q. And you're an Assistant Professor?

14 A. That's right.

15 Q. What classes do you teach?

16 A. I teach three -- I've taught regularly three  
17 classes at Yale one about Information Technology and  
18 politics. I think it's called Information Technology  
19 and Political Power, a class on U.S. election rules and  
20 campaigns, and then an upper-level seminar on U.S.  
21 elections.

22 Q. Do any of those classes deal specifically with  
23 Texas law or Texas voting registration systems?

24 A. Well, they deal with -- the two elections  
25 classes deal with election systems in general across

1 **construction or how to legally interrupt a contract,**  
2 **correct?**

3 A. I took at law school learned about elections  
4 related to law and how courts and experts in field that  
5 was election law class taught by election law scholar at  
6 Harvard not a class about how to be a lawyer so you know  
7 I don't think what -- I'm answering this way I think  
8 there's some gray area to this question and I'm trying  
9 to be very specific about what I've learned and what I'm  
10 an expert in and be where what I'm not an expert in.

11 Q. **How many law school classes have you taken?**

12 A. One year.

13 Q. **What was that?**

14 A. Maybe 2010.

15 Q. **You did not get a JD?**

16 A. Unfortunately not.

17 Q. **You're not licensed to practice law anywhere?**

18 A. Correct what I'm trying to say.

19 Q. **Never practiced law anywhere?**

20 A. Correct.

21 Q. **Expert NVRA?**

22 A. Expert in voter registration.

23 Q. **In NVRA?**

24 A. In the sense it touches upon a lot of my work  
25 I'm an expert in NRA, now not all aspects but a lot of

1                   Besides this Texas Code 2 '044 did you  
2 look at Texas statute or regulation in coming to the  
3 conclusions and opinions in this report?

4 A. Only influenced by the documents I had written  
5 CHECK.

6 Q. Did you review chapter 20 of the election  
7 code?

A. I don't remember, not that I recall.

9 Q. And you would -- if we go back to Exhibit B in  
10 your report, this doesn't say the election code,  
11 correct?

12 A. Does not.

Q. Chapter 13 of the election code?

14 A. Again not specifically some of the these  
15 sections might have been mentioned in various documents  
16 but I don't recall separately reviewing the selection  
17 code chapters.

18 Q. Just to conclusion you don't recall reviewing  
19 specifically any provision of the election code?

A. Right, correct.

Q. Did I skip over an Exhibit 6?

22 A. You might have. One, two, three, four.

23 Q. I apologize for that I'm going to mark this as  
24 Exhibit 6?

25 | (Exhibit # marked.)

1 an hour, hour and a half. I will leave it up to you.

2 THE WITNESS: I prefer a0 lunch break  
3 unless it's a massive inconvenience.

4 MR. KRAUS: Are you hungry yet?

5 THE WITNESS: I'm always hungry.

6 MR. ESTEBAN: Do you want to take 45  
7 minutes, and then we'll finish up?

8 MR. KRAUS: Okay with you?

9 THE VIDEOGRAPHER: Off at 11:31.

10 (Off the record from 11:31□a.m. to #.).

11 THE VIDEOGRAPHER: We're back op the  
12 record this is the beginning of disc 3. It's 1237.

13 Q (BY MR. ESTEBAN) Good afternoon.

14 A. Good afternoon.

15 Q. You realize you're still under oath?

16 A. Right, I do.

17 Q. I'm handing you a document that I've marked as  
18 Exhibit 8. Have you seen this document before?

19 A. This is the judges? No.

20 Q. This should be the Plaintiffs original  
21 complaint?

22 A. Oh, yes. Okay. Yes.

23 Q. And you reviewed this in conjunction CHECK?

24 A. Yes.

25 Q. We spoke earlier in the deposition whether you

1 would be giving any opinion whether Texas in violation  
2 of the NVRA, correct?

3 A. Correct.

4 Q. And I think you said that you would be  
5 offering that opinion?

6 A. I'm offering that opinion yes as a scholar of  
7 the voter registration system.

8 Q. Okay. If you would turn to page 17 of the  
9 Exhibit 8, under section Request for Relief, can you  
10 read subparagraph little i?

11 A. Sure Plaintiffs respectfully I pursuant to  
12 U.S. violated NVRA simultaneously with online driver's  
13 license renewal.

14 Q. And those two statutes 28 U.S. C and 52 U.S.  
15 C-section 2510 subsection B two correct?

16 A. That's correct.

17 Q. Are you offering opinion in this case that  
18 violated by failing to provide simultaneously with  
19 online drives license renewal specifically to those two  
20 statutes?

21 A. So again just to reiterate my main task in my  
22 report and here is to try to understand why Texas does  
23 what it does with regard to online voter registration  
24 and updating -- sorry. What Texas does with respect to  
25 incorporating voter registration into online DPS

1 A. I think I filed in the court over the previous  
2 few weeks.

3 Q. It was finalized on April 15th. I was trying  
4 to get an idea how long before that you reached your  
5 conclusion, March, February, January, do you have an  
6 estimate? Do you recall what month it was when you  
7 reached the conclusions?

8 A. I would guess it was a slow and steady  
9 research that was mostly reviewing the depositions. So  
10 the picture became clearer overtime.

11 Q. I think most the depositions in this case  
12 happened this year so would it be fair to say sometime  
13 this year?

14 A. Yes, that makes sense.

15 Q. So you said earlier -- and correct me if I'm  
16 wrong -- one of your opinions in this case is that there  
17 are no -- unless significant barriers financial barriers  
18 to implement what Plaintiffs asking for a enjoin from  
19 the injunction is that fair?

20 A. Yeah in fact a common sense versus what Texas  
21 doing now massive cost savings.

22 Q. What would this exactly look like?

23 A. This alternative procedure?

24 Q. Yes.

25 A. To briefly summarize it Texas NIC through

1 operation of Texas.gov has the ability and does track  
2 information about a voter wants to update information  
3 they can share the information straightforwardly by DPS  
4 and there repetitive said something they could do DPS  
5 could transfer that information to Secretary of State  
6 office just as from in person or mail transactions DPS  
7 confirmed if they had conversations if that was the  
8 conclusion they reached, they could easily do that and  
9 Secretary of State would do what it does the information  
10 updating individuals voter registration records CHECK in  
11 process of doing that of course it would traps met as it  
12 does now nor mail and in person transactions digitally  
13 signature of voter ^ everyone ^ every one has a digital  
14 signature stored at the DPS.

15       **Q. So your opinion is this system was implemented**

16       **Texas would I think you said chief financial savings?**

17       **A. Sure statewide.**

18       **Q. What's your estimate of the amount of savings**

19       **Texas would achieve in the first five years?**

20       **A. Again this actually brings back initial**  
21 **conversation about why it would be important to get**  
22 **other information exactly how people using online or not**  
23 **but the allergy I think of it the if I had a class I was**  
24 **teaching at a university with a hundred thousand**  
25 **students hopefully I'll never have to face such a class**

1 and students filling out Scantron tests what was the  
2 cost savings one by one versus running through Scantron  
3 machine and suppose I already had a Scantron measure in  
4 this parallel Texas has the Scantron machine you have to  
5 assess what costs keying in individually and the errors  
6 associated with that dealing with those and having the  
7 routine they do now people who transmit an online  
8 transaction and then go through a simultaneous process  
9 versus fellow the information through the current daily  
10 expert DPS already does.

11 Q. You don't have that kind of detailed data to  
12 make an estimate over what the financial savings would  
13 be is that correct?

14 A. With a few pieces of information I think we  
15 could make that estimate. I don't have it right now.

16 Q. At least with any degree of scientific  
17 certainty?

18 A. That's right I would want to know how many  
19 people are doing this how long it takes a Texas  
20 elections clerk to key in information how much do they  
21 get paid for doing so, all the costs associated with  
22 that and how much it costs to do the automatic  
23 transmission of data.

24 Q. What evidence have you reviewed as to what the  
25 current costs of administration an occurring system are?

100

1 A. I'm not sure actually been a lot of  
2 information about that except again in Mr. Ingram's  
3 statements I think there were certain numbers or cost  
4 estimates for doing something different there was talk  
5 of what would it cost fully online voter registration to  
6 do a digital signature at home for user different kind  
7 of costs talking about here this is just a cost of the  
8 cost savings associated with not keying in individual  
9 applications as Texas apparently does now conversely the  
10 automatic transmission of this data.

11 Q. So wouldn't it be important for you to know  
12 what the financial costs this current system to reach  
13 the opinion cost savings ^ if ^ in somethings changed?

14 A. Not really. I don't know if I were grading  
15 100,000 tests versus running through Scantron have to  
16 make estimate how much my time worth and how much I  
17 would spend on each of those estimates but I don't have  
18 the retrieve information more common sense to know that  
19 it is cheaper for me to run those 100,000 tests through  
20 Scantron than that grade each individually.

21 Q. Not talking about Scantron machine  
22 ^ here's ^ hears?

23 A. Equivalent if I havecy gain that's what I'm  
24 trying to say.

25 Q. Anyone help you coming to conclusion at ^ in

101

1   **in ^ in this ^ this in your report any colleagues at**  
2   **Yale?**

3           A.    No didn't talk to anyone about this.

4           Q.    **Do any sort of calculations to come to this**  
5   **conclusion?**

6           A.    No I treat this as kind of a conventional  
7   wisdom common knowledge what technology do nor  
8   efficiency.

9           Q.    **Any particular source you rely on in coming do**  
10   **this concludes CHECK?**

11          A.    I don't think so. Let me amend that I think  
12   that as someone deeply knowledgeable about voter  
13   registration systems what is really evident is that when  
14   you have people filling out voter registration  
15   applications by hands and election officers keying in  
16   information one at a time you generate errors lots of  
17   errors there's tons of small typo type of errors on  
18   voter registration applications that cause problems down  
19   the line and not being authenticated properly at the  
20   polls and those problems are in large part the result of  
21   hands keying work and so I think unarea of expertise I  
22   have brings to bear on this question how much a problem  
23   is it election officials doing stuff by hand and how  
24   much better when they don't we see that in that  
25   situation.